

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SONIA RIVERA, NOBERTO SEGUINOT, JONNATAN  
REYES, CHRISTOPHER RIVERA, ADA MORALES and  
RAFAEL NIEVES,

**ANSWER BY DEFENDANT  
CITY OF NEW YORK**

Plaintiffs,

-against-

JURY TRIAL DEMANDED

07 Civ. 5999 (DAB)

THE CITY OF NEW YORK, RAYMOND W. KELLY,  
Individually and as Police Commissioner,  
“LIEUTENANT” JOHN DOE #1”, “POLICE OFFICER  
JOHN DOE #1” through “POLICE OFFICER JOHN DOE  
#10” and “POLICE OFFICER JANE DOE #1,” the last  
twelve names being fictitious and unknown to plaintiffs,  
the persons or parties intended being New York City Police  
Officers,

Defendants.

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Defendant City of New York, by its attorney Michael A. Cardozo, Corporation Counsel of the City of New York, as and for an answer to the complaint, respectfully alleges upon information and belief as follows.

1. Denies the allegations set forth in paragraph “1” of the complaint, except admits that plaintiffs purport to bring this action and invoke the jurisdiction of this Court as stated therein.
2. Denies the allegations set forth in paragraph “2” of the complaint, except admits that plaintiffs purport to bring this action and invoke the jurisdiction of this Court as stated therein.

3. Denies the allegations set forth in paragraph “3” of the complaint, except admits that plaintiffs purport to bring this action and invoke the jurisdiction of this Court as stated therein.

4. Denies the allegations set forth in paragraph “4” of the complaint, except admits that plaintiffs purport to bring this action in this venue as stated therein.

5. Denies the allegations set forth in paragraph “5” of the complaint, except admits that plaintiffs purport to bring this action and invoke the jurisdiction of this Court as stated therein.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the complaint.

11. Defendant states that, based on the Stipulation of Partial Dismissal of All Claims by Rafael Nieves dated July 16, 2008 where plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations contained in paragraph “11” of the complaint are not averments requiring responses.

12. Admits the allegations set forth in paragraph “12” of the complaint.

13. Denies the allegations set forth in paragraph “13” of the complaint, and respectfully refers this Court to the New York City Charter and New York City Administrative Code for a recitation of the relationship between the City of New York and the New York City Police Department.

14. Denies the allegations set forth in paragraph “14” of the complaint.

15. Denies the allegations set forth in paragraph “15” of the complaint.

16. Denies the allegations set forth in paragraph “16” of the complaint.

17. Denies the allegations set forth in paragraph “17” of the complaint.

18. Denies the allegations set forth in paragraph “18” of the complaint.

19. Denies the allegations set forth in paragraph “19” of the complaint.

20. Denies the allegations set forth in paragraph “20” of the complaint.

21. Denies the allegations set forth in paragraph “21” of the complaint.

22. Denies the allegations set forth in paragraph “22” of the complaint.

23. Denies the allegations set forth in paragraph “23” of the complaint.

24. Denies the allegations set forth in paragraph “24” of the complaint.

25. Denies the allegations set forth in paragraph “25” of the complaint.

26. Denies the allegations set forth in paragraph “26” of the complaint.

27. Denies the allegations set forth in paragraph “27” of the complaint.

28. Denies the allegations set forth in paragraph “28” of the complaint.

29. Denies the allegations set forth in paragraph “29” of the complaint.

30. Denies the allegations set forth in paragraph “30” of the complaint.

31. Denies the allegations set forth in paragraph “31” of the complaint.

32. Denies the allegations set forth in paragraph “32” of the complaint.

33. Denies the allegations set forth in paragraph "33" of the complaint.
34. Denies the allegations set forth in paragraph "34" of the complaint.
35. Denies the allegations set forth in paragraph "35" of the complaint.
36. Denies the allegations set forth in paragraph "36" of the complaint.
37. Denies the allegations set forth in paragraph "37" of the complaint.
38. Denies the allegations set forth in paragraph "38" of the complaint.
39. Denies the allegations set forth in paragraph "39" of the complaint.
40. Denies the allegations set forth in paragraph "40" of the complaint.
41. Denies the allegations set forth in paragraph "41" of the complaint, except admits that Raymond Kelly is the Commissioner of the New York City Police Department.
42. Denies the allegations set forth in paragraph "42" of the complaint, except admits that plaintiffs purport to bring this action as stated therein.
43. Denies the allegations set forth in paragraph "43" of the complaint.
44. In response to the allegations set forth in all the preceding paragraphs of this answer, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
45. Denies the allegations set forth in paragraph "45" of the complaint.
46. Denies the allegations set forth in paragraph "46" of the complaint.
47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "47" of the complaint.
48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "48" of the complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “49” of the complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “50” of the complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “51” of the complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “53” of the complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “54” of the complaint.

55. Denies the allegations set forth in paragraph “55” of the complaint.

56. Denies the allegations set forth in paragraph “56” of the complaint.

57. In response to the allegations set forth in paragraph “57” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “58” of the complaint.

59. Denies the allegations set forth in paragraph “59” of the complaint.

60. Denies the allegations set forth in paragraph “60” of the complaint.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “61” of the complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “62” of the complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “63” of the complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “64” of the complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “65” of the complaint.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “66” of the complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “67” of the complaint.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “68” of the complaint.

69. Denies the allegations set forth in paragraph “69” of the complaint.

70. Denies the allegations set forth in paragraph “70” of the complaint.

71. In response to the allegations set forth in paragraph “71” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “72” of the complaint.

73. Denies the allegations set forth in paragraph “73” of the complaint.

74. Denies knowledge or information sufficient to form a belief a to the truth of the allegations set forth in paragraph “74” of the complaint.

75. Denies the allegations set forth in paragraph “75” of the complaint.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “76” of the complaint.

77. Denies the allegations set forth in paragraph “77” of the complaint.

78. Denies k the allegations set forth in paragraph “78” of the complaint.

79. Denies the allegations set forth in paragraph “79” of the complaint.

80. Denies the allegations set forth in paragraph “80” of the complaint.

81. In response to the allegations set forth in paragraph “81” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

82. Denies the allegations set forth in paragraph “82” of the complaint.

83. In response to the allegations set forth in paragraph “83” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

84. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “84” of the complaint.

85. Denies the allegations set forth in paragraph “85” of the complaint.

86. Denies the allegations set forth in paragraph “86” of the complaint and all of its subparts.

87. Denies the allegations set forth in paragraph “87” of the complaint.

88. Denies the allegations set forth in paragraph “88” of the complaint.

89. Denies the allegations set forth in paragraph “89” of the complaint.
90. Denies the allegations set forth in paragraph “90” of the complaint.
91. Denies the allegations set forth in paragraph “91” of the complaint.
92. Denies the allegations set forth in paragraph “92” of the complaint.
93. Denies the allegations set forth in paragraph “93” of the complaint.
94. Denies the allegations set forth in paragraph “94” of the complaint.
95. Denies the allegations set forth in paragraph “95” of the complaint.
96. Denies the allegations set forth in paragraph “96” of the complaint.
97. Denies the allegations set forth in paragraph “97” of the complaint.
98. Denies the allegations set forth in paragraph “98” of the complaint and all of its subparts.
99. Denies the allegations set forth in paragraph “99” of the complaint.
100. Denies the allegations set forth in paragraph “100” of the complaint.
101. Denies the allegations set forth in paragraph “101” of the complaint.
102. In response to the allegations set forth in paragraph “102” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
  103. Denies the allegations set forth in paragraph “103” of the complaint.
  104. Denies the allegations set forth in paragraph “104” of the complaint.
  105. Denies the allegations set forth in paragraph “105” of the complaint.
  106. Denies the allegations set forth in paragraph “106” of the complaint.

107. In response to the allegations set forth in paragraph "107" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

108. Denies the allegations set forth in paragraph "108" of the complaint.

109. Denies the allegations set forth in paragraph "109" of the complaint.

110. Denies the allegations set forth in paragraph "110" of the complaint.

111. Denies the allegations set forth in paragraph "111" of the complaint.

112. In response to the allegations set forth in paragraph "1112" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

113. Denies the allegations set forth in paragraph "113" of the complaint.

114. Denies the allegations set forth in paragraph "114" of the complaint.

115. Denies the allegations set forth in paragraph "115" of the complaint.

116. Denies the allegations set forth in paragraph "116" of the complaint.

117. In response to the allegations set forth in paragraph "117" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

118. Denies the allegations set forth in paragraph "118" of the complaint.

119. Denies the allegations set forth in paragraph "119" of the complaint.

120. Denies the allegations set forth in paragraph "120" of the complaint.

121. Denies the allegations set forth in paragraph "121" of the complaint.

122. Denies the allegations set forth in paragraph "122" of the complaint.

123. Denies the allegations set forth in paragraph "123" of the complaint.

124. In response to the allegations set forth in paragraph “124” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

125. Denies the allegations set forth in paragraph “125” of the complaint.
126. Denies the allegations set forth in paragraph “126” of the complaint.
127. Denies the allegations set forth in paragraph “127” of the complaint.
128. Denies the allegations set forth in paragraph “128” of the complaint.
129. Denies the allegations set forth in paragraph “129” of the complaint.
130. Denies the allegations set forth in paragraph “130” of the complaint.
131. Defendant states that the allegations set forth in paragraph “131” constitute legal conclusions to which no response is required.
  132. Denies the allegations set forth in paragraph “132” of the complaint.
  133. Denies the allegations set forth in paragraph “133” of the complaint.
  134. In response to the allegations set forth in paragraph “134” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
    135. Denies the allegations set forth in paragraph “135” of the complaint.
    136. Denies the allegations set forth in paragraph “136” of the complaint.
    137. Denies the allegations set forth in paragraph “137” and all of its subparts of the complaint.
    138. Denies the allegations set forth in paragraph “138” of the complaint.
    139. Denies the allegations set forth in paragraph “139” of the complaint.
    140. Denies the allegations set forth in paragraph “140” of the complaint.

141. Denies the allegations set forth in paragraph “141” of the complaint.
142. Denies the allegations set forth in paragraph “142” of the complaint.
143. Denies the allegations set forth in paragraph “143” of the complaint.
144. Denies the allegations set forth in paragraph “144” of the complaint.
145. Denies the allegations set forth in paragraph “145” of the complaint.
146. Denies the allegations set forth in paragraph “146” of the complaint.
147. Denies the allegations set forth in paragraph “147” of the complaint.
148. Denies the allegations set forth in paragraph “148” of the complaint.
149. Denies the allegations set forth in paragraph “149” of the complaint.
150. Denies the allegations set forth in paragraph “150” of the complaint.
151. Denies the allegations set forth in paragraph “151” of the complaint.
152. Denies the allegations set forth in paragraph “152” of the complaint.
153. Denies the allegations set forth in paragraph “153” and all of its subparts of the complaint.
154. Denies the allegations set forth in paragraph “154” of the complaint.
155. Denies the allegations set forth in paragraph “155” of the complaint.
156. Denies the allegations set forth in paragraph “156” of the complaint.
157. In response to the allegations set forth in paragraph “157” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
158. Denies the allegations set forth in paragraph “158” of the complaint.
159. Denies the allegations set forth in paragraph “159” of the complaint.
160. Denies the allegations set forth in paragraph “160” of the complaint.

161. Denies the allegations set forth in paragraph “161” of the complaint.
162. Denies the allegations set forth in paragraph “162” of the complaint.
163. Denies the allegations set forth in paragraph “133” of the complaint.
164. In response to the allegations set forth in paragraph “164” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
  165. Denies the allegations set forth in paragraph “165” of the complaint.
  166. Denies the allegations set forth in paragraph “166” of the complaint.
  167. Denies the allegations set forth in paragraph “167” of the complaint.
  168. Denies the allegations set forth in paragraph “168” of the complaint.
  169. Denies the allegations set forth in paragraph “169” of the complaint.
  170. Denies the allegations set forth in paragraph “170” of the complaint.
  171. Denies the allegations set forth in paragraph “171” of the complaint.
  172. Denies the allegations set forth in paragraph “172” of the complaint.
  173. Denies the allegations set forth in paragraph “173” of the complaint.
  174. In response to the allegations set forth in paragraph “174” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
    175. Denies the allegations set forth in paragraph “175” of the complaint.
    176. Denies the allegations set forth in paragraph “176” of the complaint.
    177. Denies the allegations set forth in paragraph “177” and all of its subparts of the complaint.
  178. Denies the allegations set forth in paragraph “178” of the complaint.

179. Denies the allegations set forth in paragraph “179” of the complaint.
180. Denies the allegations set forth in paragraph “180” of the complaint.
181. Denies the allegations set forth in paragraph “181” of the complaint.
182. Denies the allegations set forth in paragraph “182” of the complaint.
183. Denies the allegations set forth in paragraph “183” of the complaint.
184. Denies the allegations set forth in paragraph “184” of the complaint.
185. Denies the allegations set forth in paragraph “185” of the complaint.
186. Denies the allegations set forth in paragraph “186” of the complaint.
187. Denies the allegations set forth in paragraph “187” of the complaint.
188. Denies the allegations set forth in paragraph “188” of the complaint.
189. Denies the allegations set forth in paragraph “189” of the complaint.
190. Denies the allegations set forth in paragraph “190” of the complaint.
191. The complaint does not contain a paragraph “191.”
192. Denies the allegations set forth in paragraph “192” of the complaint.
193. Denies the allegations set forth in paragraph “193” and all of its subparts of the complaint.
194. Denies the allegations set forth in paragraph “194” of the complaint.
195. Denies the allegations set forth in paragraph “195” of the complaint.
196. Denies the allegations set forth in paragraph “196” of the complaint.
196. In response to the allegations set forth in the second paragraph “196” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.
197. Denies the allegations set forth in paragraph “197” of the complaint.

198. Denies the allegations set forth in paragraph “198” of the complaint.

199. Denies the allegations set forth in paragraph “199” of the complaint.

200. Denies the allegations set forth in paragraph “200” of the complaint.

201. Denies the allegations set forth in paragraph “201” of the complaint.

202. Denies the allegations set forth in paragraph “202” of the complaint.

203. In response to the allegations set forth in paragraph “203” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

204. Denies the allegations set forth in paragraph “204” of the complaint.

205. Denies the allegations set forth in paragraph “205” of the complaint.

206. Denies the allegations set forth in paragraph “206” of the complaint.

207. Denies the allegations set forth in paragraph “207” of the complaint.

208. Denies the allegations set forth in paragraph “208” of the complaint.

209. Denies the allegations set forth in paragraph “209” of the complaint.

210. Denies the allegations set forth in paragraph “210” of the complaint.

211. Denies the allegations set forth in paragraph “211” of the complaint.

212. Denies the allegations set forth in paragraph “212” of the complaint.

213. In response to the allegations set forth in paragraph “213” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

214. Denies the allegations set forth in paragraph “214” of the complaint.

215. Denies the allegations set forth in paragraph “215” of the complaint.

216. Denies the allegations set forth in paragraph “216” and all of its subparts of the complaint.

217. Denies the allegations set forth in paragraph “217” of the complaint.

218. Denies the allegations set forth in paragraph “218” of the complaint.

219. Denies the allegations set forth in paragraph “219” of the complaint.

220. Denies the allegations set forth in paragraph “220” of the complaint.

221. Denies the allegations set forth in paragraph “221” of the complaint.

222. Denies the allegations set forth in paragraph “222” of the complaint.

223. Denies the allegations set forth in paragraph “223” of the complaint.

224. Denies the allegations set forth in paragraph “224” of the complaint.

225. Denies the allegations set forth in paragraph “225” of the complaint.

226. Denies the allegations set forth in paragraph “226” of the complaint.

227. Denies the allegations set forth in paragraph “227” of the complaint.

228. Denies the allegations set forth in paragraph “228” of the complaint.

229. Denies the allegations set forth in paragraph “229” of the complaint.

230. Denies the allegations set forth in paragraph “230” of the complaint.

231. Denies the allegations set forth in paragraph “231” of the complaint.

232. Denies the allegations set forth in paragraph “232” and all of its subparts of the complaint.

233. Denies the allegations set forth in paragraph “233” of the complaint.

234. Denies the allegations set forth in paragraph “234” of the complaint.

235. Denies the allegations set forth in paragraph “235” of the complaint.

236. In response to the allegations set forth in paragraph “236” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

237. Denies the allegations set forth in paragraph “237” of the complaint.

238. Denies the allegations set forth in paragraph “238” of the complaint.

239. Denies the allegations set forth in paragraph “239” of the complaint.

240. Denies the allegations set forth in paragraph “240” of the complaint.

241. Denies the allegations set forth in paragraph “241” of the complaint.

242. Denies the allegations set forth in paragraph “242” of the complaint.

243. The complaint does not contain a paragraph “243.”

244. The complaint does not contain a paragraph “244.”

245. The complaint does not contain a paragraph “245.”

246. In response to the allegations set forth in paragraph “246” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

247. Denies the allegations set forth in paragraph “247” of the complaint.

248. Denies the allegations set forth in paragraph “248” of the complaint.

249. Denies the allegations set forth in paragraph “249” of the complaint.

250. Denies the allegations set forth in paragraph “250” of the complaint.

251. Denies the allegations set forth in paragraph “251” of the complaint.

252. Denies the allegations set forth in paragraph “252” of the complaint.

253. Denies the allegations set forth in paragraph “253” of the complaint.

254. Denies the allegations set forth in paragraph “254” of the complaint.

255. Denies the allegations set forth in paragraph “255” of the complaint.

256. In response to the allegations set forth in paragraph “256” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

257. Denies the allegations set forth in paragraph “257” of the complaint.

258. Denies the allegations set forth in paragraph “258” of the complaint.

259. Denies the allegations set forth in paragraph “259” and all of its subparts of the complaint.

260. Denies the allegations set forth in paragraph “260” of the complaint.

261. Denies the allegations set forth in paragraph “261” of the complaint.

262. Denies the allegations set forth in paragraph “262” of the complaint.

263. Denies the allegations set forth in paragraph “263” of the complaint.

264. Denies the allegations set forth in paragraph “264” of the complaint.

265. Denies the allegations set forth in paragraph “265” of the complaint.

266. Denies the allegations set forth in paragraph “266” of the complaint.

267. Denies the allegations set forth in paragraph “267” of the complaint.

268. Denies the allegations set forth in paragraph “268” of the complaint.

269. Denies the allegations set forth in paragraph “269” of the complaint.

270. Denies the allegations set forth in paragraph “270” of the complaint.

271. Denies the allegations set forth in paragraph “271” of the complaint.

272. Denies the allegations set forth in paragraph “272” of the complaint.

273. Denies the allegations set forth in paragraph “273” of the complaint.

274. Denies the allegations set forth in paragraph “274” of the complaint.

275. Denies the allegations set forth in paragraph "275" and all of its subparts of the complaint.

276. Denies the allegations set forth in paragraph "276" of the complaint.

277. Denies the allegations set forth in paragraph "277" of the complaint.

278. Denies the allegations set forth in paragraph "278" of the complaint.

279. In response to the allegations set forth in paragraph "279" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

280. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "280" of the complaint are not averments requiring responses.

281. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "281" of the complaint are not averments requiring responses.

282. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "282" of the complaint are not averments requiring responses.

283. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims

asserted in the complaint with prejudice, the allegations set forth in paragraph “283” of the complaint are not averments requiring responses.

284. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “284” of the complaint are not averments requiring responses.

285. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “285” of the complaint are not averments requiring responses.

286. In response to the allegations set forth in paragraph “286” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

287. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “287” of the complaint are not averments requiring responses.

288. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “288” of the complaint are not averments requiring responses.

289. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims

asserted in the complaint with prejudice, the allegations set forth in paragraph "28" of the complaint are not averments requiring responses.

290. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "290" of the complaint are not averments requiring responses.

291. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "291" of the complaint are not averments requiring responses.

292. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "292" of the complaint are not averments requiring responses.

293. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "2938" of the complaint are not averments requiring responses.

294. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "294" of the complaint are not averments requiring responses.

295. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "295" of the complaint are not averments requiring responses.

296. In response to the allegations set forth in paragraph "296" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

297. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "297" of the complaint are not averments requiring responses.

298. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "298" of the complaint are not averments requiring responses.

299. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "299" and all of its subparts of the complaint are not averments requiring responses.

300. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "300" of the complaint are not averments requiring responses.

301. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “301” of the complaint are not averments requiring responses.

302. Denies the allegations set forth in paragraph “302” of the complaint.

303. Denies the allegations set forth in paragraph “303” of the complaint.

304. Denies the allegations set forth in paragraph “304” of the complaint.

305. Denies the allegations set forth in paragraph “305” of the complaint.

306. Denies the allegations set forth in paragraph “306” of the complaint.

307. Denies the allegations set forth in paragraph “307” of the complaint.

308. Denies the allegations set forth in paragraph “308” of the complaint.

309. Denies the allegations set forth in paragraph “309” of the complaint.

310. Denies the allegations set forth in paragraph “310” of the complaint.

311. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “311” of the complaint are not averments requiring responses.

312. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “312” of the complaint are not averments requiring responses.

313. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims

asserted in the complaint with prejudice, the allegations set forth in paragraph “313” of the complaint are not averments requiring responses.

314. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “314” of the complaint are not averments requiring responses.

315. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “315” and all of its subparts of the complaint are not averments requiring responses.

316. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “316” of the complaint are not averments requiring responses.

317. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “317” of the complaint are not averments requiring responses.

318. Defendant states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph “318” of the complaint are not averments requiring responses.

319. In response to the allegations set forth in paragraph "319" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

320. Denies the allegations set forth in paragraph "320" of the complaint.

321. Denies the allegations set forth in paragraph "321" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "321" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

322. Denies the allegations set forth in paragraph "322" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "322" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

323. Denies the allegations set forth in paragraph "323" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "323" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

324. In response to the allegations set forth in paragraph "324" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

325. Denies the allegations set forth in paragraph "325" of the complaint.

326. Denies the allegations set forth in paragraph "326" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "326" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

327. Denies the allegations set forth in paragraph "327" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "327" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

328. Denies the allegations set forth in paragraph "328" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "328" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

329. In response to the allegations set forth in paragraph "329" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

330. Denies the allegations set forth in paragraph "330" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "330" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

331. Denies the allegations set forth in paragraph "331" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "331" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

332. Denies the allegations set forth in paragraph "322" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "322" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

333. Denies the allegations set forth in paragraph "333" of the complaint and further states that, pursuant to the Stipulation of Partial Dismissal by Rafael Nieves dated July 16, 2008 wherein plaintiff Nieves voluntarily dismissed all claims asserted in the complaint with prejudice, the allegations set forth in paragraph "333" of the complaint pertaining to plaintiff Nieves are not averments requiring responses.

334. In response to the allegations set forth in paragraph "334" of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

335. Denies the allegations set forth in paragraph "335" of the complaint.

336. Denies the allegations set forth in paragraph "336" of the complaint.

337. Denies the allegations set forth in paragraph "337" of the complaint.

338. Denies the allegations set forth in paragraph "338" of the complaint.

339. Denies the allegations set forth in paragraph "339" of the complaint.

340. Denies the allegations set forth in paragraph “340” of the complaint.

341. In response to the allegations set forth in paragraph “341” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

342. Denies the allegations set forth in paragraph “342” of the complaint.

343. Denies the allegations set forth in paragraph “343” of the complaint.

344. Denies the allegations set forth in paragraph “344” of the complaint.

345. Denies the allegations set forth in paragraph “345” of the complaint.

346. Denies the allegations set forth in paragraph “346” of the complaint.

347. Denies the allegations set forth in paragraph “347” of the complaint.

348. Denies the allegations set forth in paragraph “348” of the complaint.

349. Denies the allegations set forth in paragraph “349” of the complaint.

350. Denies the allegations set forth in paragraph “350” of the complaint.

351. In response to the allegations set forth in paragraph “351” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

352. Denies the allegations set forth in paragraph “352” of the complaint.

353. Denies the allegations set forth in paragraph “353” of the complaint.

354. Denies the allegations set forth in paragraph “354” and all of its subparts of the complaint.

355. Denies the allegations set forth in paragraph “355” of the complaint.

356. Denies the allegations set forth in paragraph “356” of the complaint.

357. Denies the allegations set forth in paragraph “357” of the complaint.

358. Denies the allegations set forth in paragraph “358” of the complaint.

359. Denies the allegations set forth in paragraph “359” of the complaint.

360. Denies the allegations set forth in paragraph “360” of the complaint.

361. Denies the allegations set forth in paragraph “361” of the complaint.

362. Denies the allegations set forth in paragraph “362” of the complaint.

363. Denies the allegations set forth in paragraph “363” of the complaint.

364. Denies the allegations set forth in paragraph “364” of the complaint.

365. Denies the allegations set forth in paragraph “365” of the complaint.

366. Denies the allegations set forth in paragraph “366” of the complaint.

367. Denies the allegations set forth in paragraph “367” of the complaint.

368. Denies the allegations set forth in paragraph “368” of the complaint.

369. Denies the allegations set forth in paragraph “369” of the complaint.

370. Denies the allegations set forth in paragraph “370” and all of its subparts of the complaint.

371. Denies the allegations set forth in paragraph “371” of the complaint.

372. Denies the allegations set forth in paragraph “372” of the complaint.

373. Denies the allegations set forth in paragraph “373” of the complaint.

374. In response to the allegations set forth in paragraph “374” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

375. Denies the allegations set forth in paragraph “375” of the complaint.

376. Denies the allegations set forth in paragraph “376” of the complaint.

377. Denies the allegations set forth in paragraph “377” of the complaint.

378. Denies the allegations set forth in paragraph “378” of the complaint.

379. Denies the allegations set forth in paragraph “379” of the complaint.

380. Denies the allegations set forth in paragraph “380” of the complaint.

381. In response to the allegations set forth in paragraph “381” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

382. Denies the allegations set forth in paragraph “382” of the complaint.

383. Denies the allegations set forth in paragraph “383” of the complaint.

384. Denies the allegations set forth in paragraph “384” of the complaint.

385. Denies the allegations set forth in paragraph “385” of the complaint.

386. Denies the allegations set forth in paragraph “386” of the complaint.

387. Denies the allegations set forth in paragraph “387” of the complaint.

388. Denies the allegations set forth in paragraph “388” of the complaint.

389. Denies the allegations set forth in paragraph “389” of the complaint.

390. Denies the allegations set forth in paragraph “390” of the complaint.

391. In response to the allegations set forth in paragraph “391” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

392. Denies the allegations set forth in paragraph “392” of the complaint.

393. Denies the allegations set forth in paragraph “393” of the complaint.

394. The complaint does not contain a paragraph “394.”

395. Denies the allegations set forth in paragraph “395” and all of its subparts of the complaint.

396. Denies the allegations set forth in paragraph “396” of the complaint.

397. Denies the allegations set forth in paragraph “397” of the complaint.

398. Denies the allegations set forth in paragraph “398” of the complaint.

399. Denies the allegations set forth in paragraph “399” of the complaint.

400. Denies the allegations set forth in paragraph “400” of the complaint.

401. Denies the allegations set forth in paragraph “401” of the complaint.

402. Denies the allegations set forth in paragraph “402” of the complaint.

403. Denies the allegations set forth in paragraph “403” of the complaint.

404. Denies the allegations set forth in paragraph “404” of the complaint.

405. Denies the allegations set forth in paragraph “405” of the complaint.

406. Denies the allegations set forth in paragraph “406” of the complaint.

407. Denies the allegations set forth in paragraph “407” of the complaint.

408. Denies the allegations set forth in paragraph “408” of the complaint.

409. Denies the allegations set forth in paragraph “409” of the complaint.

410. Denies the allegations set forth in paragraph “410” of the complaint.

411. Denies the allegations set forth in paragraph “411” and all of its subparts of the complaint.

412. Denies the allegations set forth in paragraph “412” of the complaint.

413. Denies the allegations set forth in paragraph “413” of the complaint.

414. Denies the allegations set forth in paragraph “414” of the complaint.

415. In response to the allegations set forth in paragraph “415” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

416. Denies the allegations set forth in paragraph “416” of the complaint.

417. Denies the allegations set forth in paragraph “417” of the complaint.

418. Denies the allegations set forth in paragraph “418” of the complaint.

419. Denies the allegations set forth in paragraph “419” of the complaint.

420. In response to the allegations set forth in paragraph “420” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

421. Denies the allegations set forth in paragraph “421” of the complaint.

422. Denies the allegations set forth in paragraph “422” of the complaint.

423. Denies the allegations set forth in paragraph “423” of the complaint.

424. Denies the allegations set forth in paragraph “424” of the complaint.

425. In response to the allegations set forth in paragraph “425” of the complaint, defendant repeats and realleges the responses set forth in all the preceding paragraphs of this answer as if fully set forth herein.

426. Denies the allegations set forth in paragraph “426” of the complaint.

427. Denies the allegations set forth in paragraph “427” of the complaint.

428. Denies the allegations set forth in paragraph “428” of the complaint.

429. Denies the allegations set forth in paragraph “429” of the complaint.

430. Defendant states that the allegations set forth in paragraph “430” of the complaint are not averments requiring responses.

**FOR A FIRST AFFIRMATIVE DEFENSE**

431. The complaint fails to state a claim upon which relief can be granted.

**FOR A SECOND AFFIRMATIVE DEFENSE**

432. Any injuries in the complaint were caused, in whole or in part, by plaintiffs' culpable or negligent conduct.

**FOR A THIRD AFFIRMATIVE DEFENSE**

433. At all times relevant to the acts alleged in the complaint, the duties and functions of defendant City's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City of New York is entitled to governmental immunity from liability.

**FOR A FOURTH AFFIRMATIVE DEFENSE**

434. Plaintiffs provoked any incident.

**FOR A FIFTH AFFIRMATIVE DEFENSE**

435. Plaintiff's claims may be barred, in part, by the applicable statute of limitations.

**FOR A SIXTH AFFIRMATIVE DEFENSE**

436. Plaintiffs' claims are barred, in part, by failing to comply with all conditions precedent to suit.

**FOR A SEVENTH AFFIRMATIVE DEFENSE**

437. Punitive damages are not obtainable against the City of New York.

**FOR AN EIGHTH AFFIRMATIVE DEFENSE**

438. Defendant City of New York has not violated any rights, privileges or immunities under the Constitution or laws of the United States or State of New York or any political subdivision thereon.

**FOR A NINTH AFFIRMATIVE DEFENSE**

439. There was probable cause for plaintiffs' arrests.

**FOR A TENTH AFFIRMATIVE DEFENSE**

440. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

WHEREFORE, defendant City of New York respectfully requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

Dated: New York, New York  
August 18, 2008

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